

OFFICE OF THE ATTORNEY GENERAL



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Honorable Nathan Mathis
Member, House of Representatives
Geneva and Houston Counties
Alabama State House
State House Office - Room 534-A
Montgomery, Alabama 36130

Boards of Education -
Appropriations - Funds - Contracts

County Board of Education may
contract for services within
their statutory authority.

Dear Representative Mathis:

This opinion is issued in response to your request for an
opinion from the Attorney General.

QUESTION

May the Geneva County Board of Education
contract with the Geneva County Chapter of
the Organ Transplants of Alabama to
encourage citizens of the southeast to
become organ donors and to educate them on
the overall organ transplant program?

FACTS AND ANALYSIS

The legislature appropriated \$33,072.00 for special schools
and for special education to the Geneva County Board of Education
of which the Board intends to expend \$8,000.00 for contractual
services from an organization, Organ Transplants of Alabama
(hereinafter OTA), described in your request as:

" . . . a non-profit organization. They will use these funds to promote an educational program for the citizens of Geneva County. Their mission is to encourage citizens of southeast to become organ donors and also to education (sic) them on the overall organ transplant program."

The proposed contract between the Board and OTA provides for the following services by OTA:

1. Perform mass mailing of organ donor literature to parents of Geneva County children that will educate them on the overall transplant/organ donor programs.
2. Brief driver education classes on organ donor/transplant programs.
3. Conduct briefings and provide educational literature (on overall organ donor/transplant program) to teacher group meetings (in-service).
4. Educate adult populace on organ donor program.
5. Ensure that organ donor literature is available in school libraries and that guidance counselors have this same literature.

It is axiomatic that no public funds may be expended unless properly appropriated to an agency with the statutory authority to expend money for the purpose for which it was appropriated, and that there is no statutory or constitutional limitation or prohibition to the expenditure. County boards of education are established by Code of Alabama 1975, Section 16-8-1 through Section 16-8-43. County boards of education are not agencies of the counties, but are local agencies of the State, charged by the Legislature with the task of supervising public education within the counties. Hutt v. Etowah County Bd. of Education, 454 So.2d 973 (Ala. 1984). Section 16-8-8 charges these boards with the general administration and supervision of the public schools of the county. Section 16-8-9 provides:

"The county board of education shall exercise through its executive officer . . .

control and supervision of the public school system of the county. . . ."

Section 16-8-12.1 gives the boards the authority to enter into cooperative agreements, projects and programs with the county commission, and:

" . . . may take such other actions as they deem necessary and appropriate for the proper management of the public schools . . . not inconsistent with any law or policy of the state board of education and [such other actions] shall not conflict with the purposes for which the school system is established. . . ."

The Alabama Supreme Court, in A.E.A. v. Board of Trustees, 374 So.2d 258 (Ala. 1979), construed the term "public schools" as it appears in Section 71, Constitution of Alabama 1901, relating to restrictions on general appropriations bills. The court held:

"The phrase 'the public schools,' as used in Section 71, does not include universities or colleges. 'Public schools' are those schools formerly referred to as 'common schools,' schools which are provided for in Sections 256-260 of the Constitution . . . These schools are for the benefit of children between the ages of seven and twenty-one years, encompassing, in common terminology, grammar schools and high schools. . . ." (Citations omitted.) 374 So.2d at 261.

It is apparent from a consideration of the foregoing that the Geneva County Board of Education may contract for services and programs relating to the general administration and supervision of the public schools presently comprised of K-12. In these matters, the courts have held that the Legislature has made a broad grant of authority to the State Board of Education, the State Department of Education, and to the county boards of education. Clark v. Jefferson County Board of Education, 410 So.2d 23 (Ala. 1982). It is equally apparent that the Board is without the authority to provide educational programs to the public at large except, as it relates to the control, general administration and supervision of the public schools.

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Applying these tenets to the contract in question, an expenditure for the services contained in items 2, 3, and 5, to-wit: briefing drivers education classes, in-service education, and providing literature to school libraries and to guidance counselors would be within the authority of the county board.

CONCLUSION

The Geneva County Board of Education may contract for services relating to the general administration and supervision of the public schools.

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS
Attorney General

By:

A handwritten signature in black ink, appearing to read "James R. Solomon, Jr.", written in a cursive style.

JAMES R. SOLOMON, JR.
Chief, Opinions Division

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